

REMARKS

1. Present Status of Patent Application

This is a full and timely response to the outstanding final Office Action mailed May 2, 2008. Claims 1-20 remain pending in the present application. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

2. Rejection of Claims under 35 U.S.C. §103

Claims 1, 6, 7, 14, and 18 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Zellner* (U.S. Patent Publication No. 2005/0149437 A1) in view of *Carolan* (U.S. Patent Publication No. 2004/0133440 A1). Claims 8-9, 16-17, and 19-20 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Zellner* in view of *Carolan* in further view of *Szeto* (U.S. Patent Publication No. 2003/0140103 A1). Claims 2-3 and 15 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Zellner* in view of *Carolan* in further view of *Keohane* (U.S. Patent Publication No. 2005/0216842 A1). Claims 4-5 and 10-13 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Zellner* in view of *Carolan* in further view of *Keohane* in further view of *Szeto*.

35 U.S.C. § 103(c) provides: Subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

MPEP 706.02(I)(2) provides in pertinent part:

Applications and references (whether patents, patent applications, patent application publications, etc.) will be considered by the examiner to be owned by, or subject to an obligation of assignment to the same person, at the time the invention was made, if the applicant(s) or an attorney or agent of record makes a statement to the effect that the application and the reference were, at the time the invention

was made, owned by, or subject to an obligation of assignment to, the same person.

Applicant respectfully submits that *Zellner* and the present application were commonly-owned or under an obligation to be assigned to the same entity. Applicant respectfully submits that, based on the existence of recorded assignment documents, it is Applicant's understanding that the present application and the *Zellner* reference were commonly owned by BellSouth Intellectual Property Corp. at the time the invention was made. Therefore, an obligation to assign the present application and the *Zellner* reference to the same entity at the time the invention was made has been established under 35 U.S.C. § 103(c).

Applicant respectfully submits that the *Zellner* reference is, therefore, disqualified as prior art under 35 U.S.C. § 103(c) because the *Zellner* reference qualifies as prior art only under one or more sections (e), (f) and (g) of Section 102, and the present application, and the *Zellner* reference were commonly owned or under an obligation of assignment to the same person/entity at the time the invention was made.

Applicant respectfully submits that since all of the obviousness rejections are premised on the *Zellner* reference and the *Zellner* reference is disqualified as prior art under 35 U.S.C. § 103(c), the obviousness rejections are improper and should be withdrawn.

CONCLUSION

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

For at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. In addition, Applicant reserves the right to address any comments made in the Office Action that were not specifically addressed herein. Thus, such comments should not be deemed admitted by the Applicant. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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